

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/005190

International filing date (day/month/year)
09.12.2004

Priority date (day/month/year)
12.12.2003

International Patent Classification (IPC) or both national classification and IPC
G01V9/00, G01B13/00

Applicant
GLAXO GROUP LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/005190

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,7,11,17
Inventive step (IS)	Yes: Claims	
	No: Claims	1,7,11,17
Industrial applicability (IA)	Yes: Claims	1-21
	No: Claims	

2. Citations and explanations

see separate sheet

Reference is made to the following documents:

D1: US-A-3371517 (Roth)	05-03-1968
D2: JP-A-2000186972 (Omron)	04-07-2000
D3: GB-A-1239431 (Auger)	14-07-1971

1.) The application does not comply with **Art.6 PCT** because the claims are not concise. There are two device claims (system claim 1 and sensor tool claim 17) and two method/use claims (claims 7 and 11). They appear to describe effectively the same-subject matter and differ from each other only in their wording and in their used terminology. It is therefore difficult to determine the exactly intended scope of the invention thereby rendering the claims unclear.

To overcome this objection the applicant is requested to draft one independent claim per category (i.e. one device claim and one method claim) and make the other claims dependent claims of these independent claims.

2.) Claims 18, 19, 20 and 21 refer to the drawings. This is not admissible (Rule 6.2 a, PCT and PCT-Guidelines iv/III/4.10). These claims should be removed.

3.) The present application does not meet the requirements of **Article 33(1),(2) PCT**, because the subject-matters of claim 1 and the corresponding claims 7, 11 and 17 (use, method and sensor tool) are not new.

Each of the documents D1 and D2 discloses a detection system for determining the presence of an object comprising:

- a sensor tool with air outlet (D1; col.1, li.44-46; fig.1; D2: fig.1, ref. 5, 5a)
- an air catch sensor for detecting a change in pressure (D1; col.1, li.47-50; D2; pressure sensor)
- a positioning mechanism (D1; col.1, li.64-67; D2; conveyance rail 1)
- a control unit for controlling the positioning mechanism to advance the sensor tool through a detection point for presence detection of an object (implicitly in D1 and D2, both of which employ positioning means in order to direct air jet).

4.) Remark: D3 could also be used in the further examination (especially with regard to claim 17), because this document discloses a proximity detector employing fluid flow for detecting the presence of an object. Nozzle unit and air catch sensor are used by such a device (D3; page 1, li. 10 - 45 and page 2, li.12-29; fig. 1, 2).

5.) At the present stage, no inventive contribution can be identified in the dependent claims.

6.) Should the applicant nevertheless regard some particular matter as new and inventive, the following points should be taken into consideration:

6.1) **The claims should be concise (Art.6 PCT):** the applicant is requested to draft one independent claim per category (one independent method claim and one independent apparatus claim) and make the other claims dependent claims on these independent claims.

6.2) **The independent claims should be clear (Art. 6 PCT):** all features necessary to carry out a method as claimed and to define the structural features of an apparatus as claimed should be included in the independent claims.

6.3) The applicant should also **indicate in the letter of reply the difference** of the subject-matter of the new claims vis-à-vis the state of the art and the significance thereof.

6.4) In order to expedite the procedure, the applicant is requested to **indicate in his reply the passages** in the application as originally filed which form the basis of the amendments. The applicant respectfully is reminded of **Art.19(2) PCT** which says that **the amendments shall not go beyond the disclosure in the international application as originally filed.**